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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,843	03/15/2004	Kenneth J. Taggart SR.	17745/09100-Utility	1531

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EXAMINER

MEISLIN, DEBRA S

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,843	Applicant(s) TAGGART ET AL.	
	Examiner Debra S. Meislin	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/9/06</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 4, 5, 7, 8, 9, 12, 13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brame (2691316) in view of Tuan-Mu (2004/0035257).

Brame discloses all of the claimed subject matter except for having a socket engaged by the ratchet wrench (claims 1, 4, 9 and 12) and a hex shaped opening (claims 9 and 15) for engagement with the drive bar fitting. Tuan-Mu (paragraph [0038], figures 1, 9A-B, 10A-B) discloses a ratchet wrench having a plurality of teeth on an inner circumference thereof, and a socket having teeth at one end for engagement with the ratchet teeth and a hexagonal socket at the opposite end. It would have been obvious to one having ordinary skill in the art to form the device of Brame with a socket having teeth at one end for engagement with the ratchet teeth of a ratchet wrench and having a hexagonal socket at the opposite end to allow for the engagement of variously sized/shaped workpieces as taught by Tuan-Mu.

Brame discloses a square shaped drive opening at one end of the wrench opposite to the ratchet end of the wrench. With respect to claims 9 and 15, the examiner takes Official Notice that the use of hexagonal as opposed to square shaped drive openings is notoriously old and well known in the art. Consequently, It would have been obvious to one having ordinary skill in the art to form the square opening of Brame as hexagonal as such is notoriously old and well known in the art.

3. Claims 2, 6, 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brame (2691316) in view of Tuan-Mu (2004/0035257) as applied above, in further view of Carrigan (4337860).

Carrigan discloses tool sets including crow foot wrenches "24" having an open end and an opposite end with a square opening. It would have been obvious to one having ordinary skill in the art to provide the device of Brame with a crow foot wrench for added versatility as taught by Carrigan.

4. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brame (2691316) in view of Tuan-Mu (2004/0035257) as applied above, in further view of Bennett et al (5368164).

Bennett et al discloses a blow molded tool set case. It would have been obvious to one having ordinary skill in the art to provide the device of Brame with a blow molded tool set case to removably store tools as taught by Bennett et al.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Applicant's arguments filed November 18, 2005 have been fully considered but they are not persuasive.

White, Jr. (4,596,167), of record, discloses a square or hexagonal drive opening to releasably receive a square or hexagonal drive stud of a drive bar. Hyatt (2001/0007213) additionally discloses a drive socket that may be square, hexagonal or of any of a variety of other shaped openings. See page 4, column 1, paragraph [47] of Hyatt. Consequently, it is clear from the prior art that the use of hexagonal as opposed to square shaped drive openings is notoriously old and well known in the art.

Note that the examiner did not state that “a double box end wrench having a first end defining a hex shaped opening that is sized to releasably receive a drive bare is notoriously old” as averred by applicant. The examiner’s statement was “the use of hexagonal as opposed to square shaped drive openings is notoriously old and well known in the art”.

In response to applicant's argument that “use of the Tuan-Mu socket in Brame would require that the Brame hub be modified to provide a circumferential groove in the inner circumference of the hub to releasably retain the ring on the outer circumference of the socket in the hub”, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art, as set forth below. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Brame discloses all of the claimed subject matter except for having a socket engaged by the ratchet wrench (claims 1, 4, 9 and 12) and a hex shaped opening (claims 9 and 15) for engagement with the drive bar fitting. Tuan-Mu (paragraph [0038], figures 1, 9A-B, 10A-B) **discloses a ratchet wrench having a plurality of teeth on an inner circumference thereof, and a socket having teeth at one end for engagement with**

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the ratchet teeth and a hexagonal socket at the opposite end. It would have been obvious to one having ordinary skill in the art to form the device of Brame with a socket having teeth at one end for engagement with the ratchet teeth of a ratchet wrench and having a hexagonal socket at the opposite end **to allow for the engagement of variously sized/shaped workpieces** as taught by Tuan-Mu.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, there is some teaching, suggestion, or motivation to do so found in the references themselves as highlighted, above.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., to angle the extension with respect to the box end handle in a plane perpendicular

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to the ratchet hub axis) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

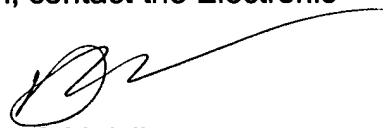
However, the extension of Brame is structurally capable of such angular movement.

The pivotal movement of the extension does not preclude angling the extension with respect to the box end handle in a plane perpendicular to the ratchet hub axis.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S. Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272 4485. The fax phone number for the organization where this application or proceeding is assigned is 571 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin
Primary Examiner
Art Unit 3723

February 1, 2006